

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

WELLS FARGO BANK, N.A., AS TRUSTEE,

Plaintiff,

-against-

CHUKCHANSI ECONOMIC DEVELOPMENT
AUTHORITY, THE BOARD OF THE CHUKCHANSI
ECONOMIC DEVELOPMENT AUTHORITY, THE
TRIBE OF PICAYUNE RANCHERIA OF THE
CHUKCHANSI INDIANS, THE TRIBAL COUNCIL OF
THE TRIBE OF PICAYUNE RANCHERIA OF THE
CHUKCHANSI INDIANS, THE PICAYUNE
RANCHERIA TRIBAL GAMING COMMISSION,
RABOBANK, N.A., GLOBAL CASH ACCESS, INC.,
NANCY AYALA, TRACEY BRECHBUEHL, KAREN
WYNN, CHARLES SARGOSA, REGGIE LEWIS,
CHANCE ALBERTA, CARL BUSHMAN, and BANK
OF AMERICA, N.A.,

Defendants.

Index No.

Date Purchased: June 18, 2013

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiff's attorneys an answer to the complaint in this action within 20 days after the service of this summons, exclusive of the date of the summons, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer or appear, judgment will be taken against you by default for the relief demanded in the complaint.

1. Plaintiff designates New York County as the place of trial. Venue is based on N.Y. C.P.L.R. § 327(b) and New York General Obligations Law § 5-1402 because this action

arises out of a contract pursuant to which CEDA and the Tribe (as defined below) have agreed to submit to the laws and jurisdiction of the State of New York and which involves obligations arising out of transactions covering in the aggregate not less than one million dollars. Venue is also based on C.P.L.R. §§ 501 and 503(a), because CEDA and the Tribe selected New York County pursuant to Section 13.1 of the relevant Indenture, which is attached as an exhibit to the accompanying complaint, and have agreed not to contest such venue, and C.P.L.R. §302(a), because certain Defendants conduct business in the state or committed a tortious act causing injury within the state. Plaintiff resides in New York County.

2. Defendant Tribe of the Picayune Rancheria of the Chukchansi Indians is a federally-recognized Indian tribe (the “Tribe”) which resides in California.

3. Defendant Tribal Council of the Tribe of the Picayune Rancheria of the Chukchansi Indians is the Tribal council of a federally-recognized Indian tribe resides in California.

4. Defendant Chukchansi Economic Development Authority (“CEDA”) is a wholly-owned unincorporated enterprise of the Tribe with its principal place of business located in California.

5. Defendant Board of the Chukchansi Economic Development Authority is the board of directors of the Chukchansi Economic Development Authority, which has its principal place of business located in California.

6. Defendant the Picayune Rancheria Tribal Gaming Commission is a unit or agency of the Tribe with its principal place of business in California.

7. Defendant Rabobank, N.A. is a national banking association organized under the laws of the United States, with its principal offices located in California.

8. Defendant Bank of America, N.A. is a national banking association organized under the laws of the United States, with its principal offices located in North Carolina.

9. Defendant Global Cash Access, Inc. is a Delaware corporation with its principal offices located in Nevada.

10. Defendants Nancy Ayala, Tracey Brechnuehl, Karen Wynn, Charles Sargosa, Reggie Lewis, Chance Alberta and Carl Bushman are all individuals who reside in California.

Dated: June 18, 2013
New York, New York

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By:



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*Attorneys for Plaintiff Wells Fargo Bank,
N.A., in Its Capacity as Trustee Under the
Indenture and Collateral Agent Under the
Security Agreement*

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Defendants.

Index No.

COMPLAINT

Plaintiff Wells Fargo Bank, N.A. (the “Trustee” or “Wells Fargo”), acting in its capacity as Trustee and Collateral Agent under the Indenture and Security Agreement, respectively (as defined below), by its attorneys Latham & Watkins LLP, for its Complaint against Chukchansi Economic Development Authority (“CEDA” or the “Authority”), The Board of the Chukchansi Economic Development Authority (the “Board”), The Tribe of the Picayune Rancheria of the Chukchansi Indians (the “Tribe”), The Tribal Council of the Tribe of the Picayune Rancheria of the Chukchansi Indians (the “Tribal Council”), The Picayune Rancheria Tribal Gaming Commission (the “Tribal Gaming Commission”), Rabobank, N.A. (“Rabobank”), Global Cash Access, Inc. (“Global Cash Access”), Bank of America, N.A. (“Bank of America”), and the individuals Nancy Ayala, Tracey Brechbuehl, Karen Wynn, Charles Sargosa, Reggie

Lewis, Chance Alberta and Carl Bushman (collectively, the “Defendants”), alleges, on personal knowledge as to the Trustee’s actions and upon information and belief as to the actions of others, as follows:

NATURE OF THIS ACTION

1. The Trustee brings this lawsuit against Defendants related to numerous current and ongoing breaches of the Indenture, the related Security Agreement and other agreements at issue. The breaches all relate to a dispute that has erupted within CEDA, which was established by the Tribe to operate the Chukchansi Gold Resort & Casino in Coarsegold, CA (the “Casino”), and which issued approximately \$250 million in Secured Notes (as defined below) in May 2012 pursuant to the Indenture to refinance the debt of the Casino.

2. The breaches occurred no later than February 2013, when at least two separate factions began battling for control of the Tribal Council, which governs the Tribe, and control of CEDA. This Tribal governance dispute has led to the mishandling of Casino cash and revenues in a manner inconsistent with the provisions of the Indenture and related agreements. The dispute has caused chaos and substantially disrupted the Casino’s operations and finances, resulting in several serious breaches of the Indenture and related agreements. This situation threatens to cause permanent and irreversible damage to the health of the Casino and, as a result, the collateral underlying the Secured Notes (the “Collateral”). The Holders have an uncontested security interest in the Collateral.¹

3. To be clear, the Trustee is not asking this Court to resolve the underlying Tribal dispute nor does it seek to have any role in managing the operations of the Casino.

¹ As discussed below, the Trustee takes no position with respect to which faction should be in control of the Tribe and CEDA. The Trustee is serving the Tribe and CEDA with this Complaint using the procedures provided in the Indenture, and is serving both factions and their counsel with all papers in this action.

Regardless of which Faction ultimately prevails in the underlying Tribal dispute, the Trustee is entitled to the limited relief sought herein, which will help protect the investment made by the holders of the Secured Notes (the “Holders”). The Trustee has done everything it can to resolve this issue consensually but is left with no choice but to seek the Court’s intervention. The Trustee understands that certain parties it names as Defendants in this action – Rabobank, Bank of America and Global Cash Access – have been caught in the middle of the Tribal dispute and would welcome direction from the Court.²

4. Specifically, among other actions:
 - a. CEDA has failed to pay millions of dollars of interest required by the Indenture;
 - b. the Ayala Faction (as defined below), which controls the management of the Casino and its revenues, opened and transferred Casino funds—purportedly in the name of CEDA—into a new bank account, in breach of the Security Agreement that requires CEDA to deposit cash only into accounts over which the Trustee has control;
 - c. when that new account was frozen by the bank, the Ayala Faction, again in the name of CEDA, began maintaining the Casino’s revenues in the Casino “cage” rather than depositing those revenues with a bank, as required under the Indenture, thus putting significant cash at risk and further violating the Indenture and the Security Agreement;
 - d. the Lewis Faction (as defined below), also in the name of CEDA, brought suit in a purported Tribal Court not only to challenge the Ayala Faction regarding the rightful control and authority of the Tribal Council, the Tribe and CEDA, but also—in direct violation of the Indenture and related agreements—against the Trustee for taking actions expressly permitted as Indenture Trustee, and instituted related proceedings before a purported Tribal Gaming

² The Trustee will give notice of this lawsuit to Bank of America and Global Cash Access and the requested relief and will determine if they oppose the requested relief. Rabobank has indicated that it will accept the funds from Bank of America and Global Cash Access. Rabobank is joined as a party only to the extent necessary to enable those funds to be deposited in the Rabobank Accounts.

Commission; and

- e. the Tribe itself, through the actions of both Factions, has, *inter alia*, restricted CEDA's right and ability to conduct Casino business and has done so in a manner that is materially adverse to the economic interests of the Holders.

5. Wells Fargo is an innocent bystander in the underlying Tribal dispute and takes no position with respect to which Faction rightfully should be in control of the Tribe and the Tribal Council. But that does not change the fact that CEDA and the Tribe have violated their agreements with Wells Fargo, and the specific nature of these ongoing violations poses significant risks to the Casino's operations and to the ability of Wells Fargo to obtain adequate relief.

6. With this Complaint, the Trustee is filing a request for an Order to Show Cause with respect to many of the issues. The Trustee firmly believes that, with the Court's assistance, breaches of the Indenture and related agreements may be remedied and the operations of the Casino can be returned to the *status quo ante* on an expedited basis before further irreparable harm is done.

PARTIES

7. Plaintiff Wells Fargo, acting solely as Trustee in this action, is a national banking association organized under the laws of the United States. Its main offices are located at 101 North Phillips Avenue, Sioux Falls, South Dakota.

8. Defendant Tribal Council of the Tribe of the Picayune Rancheria of the Chukchansi Indians is the Tribal council of a federally-recognized Indian tribe.

9. Defendant Tribe of the Picayune Rancheria of the Chukchansi Indians is a federally-recognized Indian tribe.

10. Defendant Chukchansi Economic Development Authority is a wholly-owned unincorporated enterprise of the Tribe.

11. Defendant Board of the Chukchansi Economic Development Authority is the board of directors of the Chukchansi Economic Development Authority.

12. Defendant the Picayune Rancheria Tribal Gaming Commission is a unit or agency of the Tribe. Section 13.1(a) of the Indenture defines “Tribal Parties” as “the Tribe, the Authority, any entity arm or subunit of the Tribe and the Guarantors.” Accordingly, the Tribe, the Tribal Council, CEDA, the Board, and the Tribal Gaming Commission are referred to herein as the “Tribal Parties.”

13. Defendant Rabobank is a national banking association organized under the laws of the United States. Its principal offices are located at 1448 Main Street, El Centro, California. Rabobank is the depositary bank holding certain of the Casino’s Gross Revenues in several accounts (the “Rabobank Accounts”). As discussed in more detail herein, the Trustee has certain legal rights to control of the funds held by Rabobank in the Rabobank Accounts pursuant to the Deposit and Account Control Agreement, in which CEDA agreed to give the Trustee control of such funds under the Deposit Account Control Agreement.³ Slade Aff. Ex. F., Deposit Account Control Agreement.

14. Defendant Bank of America, N.A. is a national banking association organized under the laws of the United States with its principal offices located at 401 North Tryon Street, Charlotte, North Carolina Bank of America is the depositary bank holding certain of the Casino’s Gross Revenues and Revenues and Cash (as defined in the Indenture and

³ Capitalized terms not otherwise defined in this Complaint shall have the meaning ascribed to them in the Indenture, Security Agreement, and related documents. *See* Slade Aff. Ex. A, Indenture & Ex. E, Security Agreement. All references to “Slade Aff. Ex. ___” are to the exhibits attached to the Affidavit of Michael Slade, submitted herewith.

Security Agreement), as deposited recently by the Ayala Faction in violation of the agreements at issue. The Trustee has a security interest in and legal right to possession of the funds held by Bank of America. These funds should be placed in CEDA's Operating Account at Rabobank (the "Operating Account").

15. Defendant Global Cash Access is a Delaware corporation, and its principal offices are located at 7250 South Tenaya Way Suite 100, Las Vegas, Nevada. Global Cash Access is one of the Casino's vendors and currently holds over \$14 million in uncashed checks payable to the Casino, which are part of the Collateral. The Trustee has a security interest in the funds held by Global Cash Access, and a legal right to possession of those funds up to the amount sufficient to satisfy the amount owed by CEDA to the Trustee. Those funds should be placed in the Operating Account.

16. Defendant Nancy Ayala is an individual who asserts that she is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians and the Tribal Council Chairwoman. Ayala is also a signatory to the Security Agreement and the Indenture, both described below. Ayala is the leader of the "Ayala Faction," as defined below.

17. Defendant Tracey Brechbuehl is an individual who asserts that she is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians. Brechbuehl is associated with Defendant Nancy Ayala in her position as purported Tribal Council Chairwoman. She is a member of the "Ayala Faction," as defined below.

18. Defendant Karen Wynn is an individual who asserts that she is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians. Wynn is associated with Defendant Nancy Ayala in her position as purported Tribal Council Chairwoman. She is a member of the "Ayala Faction," as defined below.

19. Defendant Charles Sargosa is an individual who asserts that he is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians. Sargosa is associated with Defendant Nancy Ayala in her position as purported Tribal Council Chairwoman. He is a member of the “Ayala Faction,” as defined below.

20. Defendant Reggie Lewis is an individual who asserts that he is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians and the Tribal Council Chairman. Lewis is also a signatory to the Security Agreement and the Indenture, both described below. He is the leader of the “Lewis Faction,” as defined below. Lewis, as with the other members of the Lewis Faction, is named as a defendant generally with respect to the Lewis Faction’s bringing unauthorized proceedings against the Trustee in breach of the Indenture and for interference with contractual relations, as described below.

21. Defendant Chance Alberta is an individual who asserts that he is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians and who is associated with Defendant Reggie Lewis in his position as purported Tribal Council Chairman. He is a member of the “Lewis Faction,” as defined below. Alberta, as with the other members of the Lewis Faction, is named as a defendant generally with respect to the Lewis Faction’s bringing unauthorized proceedings against the Trustee, in breach of the Indenture and for interference with contractual relations, as described below.

22. Defendant Carl Bushman is an individual who asserts that he is a member of the Tribal Council of the Picayune Rancheria of the Chukchansi Indians and who is associated with Defendant Reggie Lewis in his position as purported Tribal Council Chairman. He is a member of the “Lewis Faction,” as defined below. Bushman, as with the other members of the Lewis Faction, is named as a defendant generally with respect to the Lewis Faction’s bringing

unauthorized proceedings against the Trustee, in breach of the Indenture and for interference with contractual relations, as described below. Ayala, Brechnuehl, Wynn, Sargosa, Lewis, Alberta, and Bushman (the “Individual Defendants”) are named as individual defendants.

JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction over this action under N.Y. Judiciary Law § 140-b and Article VI, § 7 of the Constitution of the State of New York.

24. This Court has personal jurisdiction over the Defendants in this action pursuant to CPLR § 302(a), because certain Defendants conduct business in the state or committed a tortious act causing injury within the state, as described herein, and New York General Obligations Law § 5-1402, because the action arises out of a contract relating to transactions covering in the aggregate not less than one million dollars for which a choice of New York law has been made and which contains a provision whereby the Tribal Defendants agree to submit to the jurisdiction of the courts of this State. Section 13.1(c) of the Indenture states, in pertinent part:

[the Tribe, the Authority, any entity, arm or subunit of the Tribe, and the Guarantors], the Trustee and the Collateral Agent will agree to irrevocably and unconditionally submit, for itself and its property, to the exclusive jurisdiction of the United States District Court, Southern District of New York, and any appellate court from which any appeals therefrom are available (the “New York Federal Courts”), the courts of the State of New York sitting in the City of New York, County of New York, and any appellate court from which any appeals therefrom are available (the “New York State Courts”) . . . in any action or proceeding arising out of or relating to any Transaction Document or the transaction contemplated thereby.

Section 11.8(c) of the Security Agreement contains substantially identical language. Further, under Resolution #2012-78 of the Picayune Rancheria of the Chukchansi Indians, the Tribal

Council resolved to waive sovereign immunity in conjunction with its role in obtaining financing for the Casino through the Secured Notes.⁴

25. Venue is proper in this county pursuant to CPLR § 327(b) and New York General Obligations Law § 5-1402 because this action arises out of a contract pursuant to which the CEDA and the Tribe have agreed to submit to the laws and jurisdiction of the State of New York and which involves obligations arising out of transactions covering in the aggregate not less than one million dollars. In addition, venue is appropriate under CPLR §§ 501 and 503(a) because CEDA and the Tribe selected New York County pursuant to Section 13.1 of the Indenture and agreed not to contest such venue. Further, the Trustee resides in New York County.

FACTUAL ALLEGATIONS

The Financing for the Casino

26. On May 30, 2012, CEDA issued \$250,406,000 9¾% Secured Notes due 2020 (the “Secured Notes”) pursuant to that certain Indenture, dated as of May 30, 2012, as amended or modified from time to time (the “Indenture”). Slade Aff. Ex. A.

27. As part of the issuance of the Secured Notes, CEDA, the other grantors and the Trustee also entered into a Security Agreement (the “Security Agreement”). Slade Aff. Ex. E.

⁴ Pursuant to the Indenture, CEDA and the Tribe have granted an “irrevocable limited waiver of sovereign immunity . . . from unconsented suit, arbitration or other legal proceedings . . . with respect to the Transaction Documents and the transactions contemplated thereby . . . to . . . interpret or enforce the provisions of the Transaction documents or rights arising in connection therewith or the transactions contemplated thereby, whether such rights arise in law or equity.” Indenture § 13.1(b). Section 11.8(d) of the Security Agreement and Section 8.19 (d) contain substantially identical language. Resolution #2012-78 of the Picayune Rancheria of the Chukchansi Indians, the Tribal Council affirmed this waiver of sovereign immunity.

28. The financing to which the Secured Notes relate was used by CEDA to refinance obligations incurred by it to construct the Casino, and to make certain capital improvements. As part of the refinancing, CEDA pledged the revenues earned by the Casino as collateral for the Secured Notes, among other things, and covenanted to deposit such revenues into certain specified bank accounts at Rabobank, at other Qualified Banks, or with the Collateral Agent.

29. As security for the Secured Notes, CEDA granted a security interest to the Trustee in the collateral described in the Security Agreement, including all of CEDA's Revenues and Cash and Receivables (which includes all "Pledged Revenues" as defined in the Tribal Uniform Commercial Code (the "Tribal UCC")).⁵

Tribal Dispute

30. The Tribe elects and appoints a Tribal Council, which serves as the governing body for the Tribe. The elected Tribal Council also sits as the Board of Directors for CEDA. Thus, the make-up of the Tribal Council and the Board of Directors for CEDA is identical.

⁵ In fact, the Trustee's security interest is perfected, but that issue is neither in dispute nor necessary for the Court to decide to grant the Trustee's requested relief.

Under Resolution #2012-51 of the Picayune Rancheria of the Chukchansi Indians, a security interest in "Pledged Revenues," which includes money, earnings and income, shall be created and attached upon the giving of value and the granting of a security interest in a writing and may be perfected by filing of a financing statement in the manner described in the California Uniform Commercial Code.

Pursuant to Section 11.6 of the Security Agreement, if the creation or attachment of any security interest in any item of collateral is excluded from the coverage of the New York Uniform Commercial Code or cannot be created or attached under the New York Uniform Commercial Code, then the creation and/or attachment of the security interest in such collateral will be governed by the Tribal UCC. The Trustee therefore in fact perfected its security interest in, *inter alia*, all Pledged Revenues by filing a UCC-1 Financing Statement in California as required by the Tribal UCC.

31. CEDA is in charge of operating the Casino. At the time of the signing of the Indenture in May 2012, CEDA's Chairman was Reggie Lewis and its Vice Chairperson was Nancy Ayala. In December 2012, Ayala was elected Chairwoman of the Tribal Council.

32. In or around February 2013, a dispute erupted within the Tribe and CEDA regarding who should be in charge of those bodies. This dispute has fractured control of the Casino. Ayala, acting under her purported authority as Tribal Council Chairwoman, took actions to replace certain members of the Tribal Council, including Lewis.

33. At least two separate factions have claimed to be the true leaders of the Tribe, the Tribal Council and CEDA: the "Ayala Faction" and the "Lewis Faction" (collectively, the "Factions").⁶ The "Ayala Faction" consists of Nancy Ayala, Tracey Brechbuehl, Karen Wynn, and Charles Sargosa. These individuals assert that Nancy Ayala is the Tribal Council Chairwoman, and that, as such, she has proper authority to control CEDA and the Casino.

34. The "Lewis Faction" consists of Reggie Lewis, Chance Alberta, and Carl Bushman. These individuals assert that Reggie Lewis is the Tribal Council Chairman, and that, as such, he has proper authority to control CEDA and the Casino.

35. Each Faction claims to have its own Tribal Council, Tribal Court and Tribal Gaming Commission.

36. During 2013 and at the present time, the Ayala Faction has been in control of the Casino's operations. But, in violation of the Security Agreement, and presumably because of the disputes that have arisen, the Ayala Faction did not deposit the Casino's Gross Revenues and Revenues and Cash in the Rabobank Accounts, but instead began maintaining cash in the

⁶ The Trustee will serve this Complaint and the related Order to Show Cause on both the Lewis Faction and the Ayala Faction.

Casino.⁷ This has caused substantial disruption to the management of the Casino's finances, as discussed below.

37. The Trustee takes no position with respect to the dispute regarding the governance of the Tribe. However, regardless of which Faction has the rightful claim to leadership, the governance dispute has caused CEDA and other Defendants to breach the Indenture and related agreements in numerous ways.

Failure to Deposit Gross Revenues and Revenues and Cash

38. Pursuant to Section 4.25 of the Indenture, at least once per week, CEDA is required to cause all Gross Revenues, other than Operating Cash and Gross Revenues that constitute Excluded Assets, to be deposited in Deposit Accounts at a Qualified Bank (*e.g.*, Rabobank). Gross Revenues are defined under Section 1.1 of the Indenture to include all revenues from the Casino, less certain items including Operating Cash. Operating Cash is defined under Section 1.1 of the Indenture as certain cash necessary for the operation of the Casino, not to exceed an aggregate of \$10 million.

39. Additionally, pursuant to Section 4.9 of the Security Agreement, CEDA must deposit all Revenues and Cash in excess of Operating Cash into, and maintain them in, an account over which the Trustee has control. Revenues and Cash is defined under Section 1.1 of the Security Agreement to include all profits, income and revenues derived from the Casino.

40. Since approximately the last week of February 2013, presumably because of the disputes that have arisen, CEDA has stopped depositing the Gross Revenues and Revenues and Cash into the specified Rabobank accounts. Substantial cash balances, upon information and

⁷ Pursuant to Sections 4.4.4(b) and 4.9 of the Security Agreement, CEDA is required to deposit the Casino's Revenues and Cash into a deposit account over which Wells Fargo has been granted express control by CEDA. This includes the Rabobank Accounts.

belief consisting of millions of dollars in excess of necessary Operating Cash, instead are being held in the Casino cage and in locations and bank accounts other than designated Deposit Accounts at Rabobank.

41. Thus, CEDA has breached the Security Agreement in at least two ways: First, it has failed to cause these Gross Revenues and Revenues and Cash to be deposited into a bank account over which the Trustee has control. Second, CEDA has failed to cause these Gross Revenues and Revenues and Cash to be deposited into any bank account, and thus a significant amount of cash is being held unsafely at the Casino itself rather than deposited into any bank account.

Failure to Deposit Casino Finances In Accordance with the Indenture and Related Documents

42. As a result of the foregoing, and for other reasons as discussed herein, the Trustee is deeply concerned that appropriate internal controls regarding cash management are not being followed at the Casino level, resulting in additional significant risks to the Casino and the Holders. On information and belief, it is becoming increasingly difficult for CEDA to satisfy the daily cash needs of the Casino, including payroll and the amounts required to maintain gaming operations. On information and belief, the current state of the Casino's finances has led to, among other things, the issuance of bad checks to Casino employees.

43. The dispute between the Factions also has led to debilitating disruption with the Casino's vendors. For example, Global Cash Access, one of the Casino's key vendors which reconciles the total ATM cash dispensed from the Casino and must reimburse the Casino for these reconciled amounts, has been unable to make payments due to the dispute. Historically, Global Cash Access regularly deposited these amounts directly into the Rabobank Accounts. In connection with the recent Tribal governance dispute, CEDA then instructed Global Cash Access

to make payments into the unauthorized Bank of America account. However, as discussed below, the Bank of America account has been frozen as a result of the dispute and through no fault of Bank of America or Global Cash Access. Global Cash Access has been forced to send checks directly to the Casino, but those checks have not been cashed. The funds that Global Cash Access is prepared to remit are part of the Collateral and constitute Revenues and Cash under the Security Agreement. Pursuant to the relevant agreements, as outlined above, the funds should have been deposited into an account over which the Trustee has control – i.e., the Rabobank Accounts.

44. Additionally, on information and belief, CEDA has been paying Casino employees by cash and cash vouchers, not by check or direct deposit which is standard in the industry. This handing out of large sums of cash raises security and internal control concerns. For example, Section 8.3 of the Tribal Gaming Ordinance, with which CEDA is required to comply, prohibits CEDA from failing to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid from any Gaming Activity. *See* Slade Aff. Ex. B, Tribal Gaming Ordinance. CEDA's failure to comply with internal control procedures is discussed in more detail in paragraphs 60-66 below. This method of paying employees may also result in accounting irregularities.

45. In late April, the Lewis Faction, claiming to be the true leaders of the Tribe, began sending "cease and desist" letters to various vendors, demanding that they stop providing services to the Casino. *See, e.g.,* Slade Aff. Ex. D. The letters claim that, by continuing to provide services to and receive payment from the Casino, the vendors are committing criminal activities by allegedly supporting the Ayala Faction. By sending these

letters, the Lewis Faction endangered the financial well-being of the Casino, and the negative impact such letters may have on the Casino's operations is enormous and irreparable.

46. The Tribal dispute also has caused problems with the entities that regulate the Casino. CEDA is required to pay certain fees to the California Gambling Control Commission to maintain its licenses to operate gaming machines. On information and belief, and, in part because of its inability to clear checks through Rabobank, as of May 22, 2013, CEDA was \$551,250 in arrears with the California Gambling Control Commission. As a result, the Trustee is concerned that the licenses may lapse (resulting in further breaches of the Indenture) and the California Gambling Control Commission may take action against CEDA.

Opening of Bank of America Account

47. On March 19, 2013, the Ayala Faction, claiming to be in control of CEDA, opened an account at Bank of America, and on March 20, began depositing Gross Revenues and Revenues and Cash from the Casino into that account. However, CEDA did not enter into an Account Control Agreement with the Trustee for the Bank of America account, in violation of the Indenture and the Security Agreement.

48. Specifically, CEDA's failure to enter into an Account Control Agreement constitutes a breach of Section 4.4.4(b) of the Security Agreement, which states, in relevant part:

With respect to any Investment Related Property constituting Collateral that is a Deposit Account, each Grantor shall cause the depository institution maintaining such account to enter into an agreement in the form of the Account Control Agreement, or another form acceptable to the depository institution and the Collateral Agent, which is effective to establish "control" under the UCC, pursuant to which the Collateral Agent shall have "control" (within the meaning of Section 9-104 of the UCC) over such Deposit Account. Each Grantor shall have entered into such control agreement or agreements with respect to . . . [any] Deposit Accounts constituting Collateral that are created or acquired after

the Issue Date, as of or prior to the deposit or transfer of any such . . . funds.

49. CEDA's failure to enter into an Account Control Agreement for the Bank of America account also constitutes a breach of the Security Agreement, which itself constitutes a breach of the Indenture. Pursuant to Section 6.1(12) of the Indenture, "any breach by the Authority of any material agreement in the Collateral Documents [including, but not limited to, the Security Agreement] which, in each case, continues for 15 days after an Officer of the Authority becomes aware of the occurrence and continuance of such breach" constitutes an Event of Default. Both Factions have been aware of this breach for much longer than fifteen days.

50. On April 2, 2013, upon notice of the ongoing Tribal governance dispute, Bank of America froze CEDA's account. Upon information and belief, that account currently holds approximately \$2.6 million.

The Trustee's Rights to the Bank of America Funds

51. Pursuant to Sections 4.4.4(b) and 4.9 of the Security Agreement, the Trustee has a legal right of possession to the funds in this Bank of America account. These sections explicitly require that the Revenues and Cash must be deposited into an account over which the Trustee has control through an Account Control Agreement. As such, as of that date, the Trustee has a security interest in CEDA's Revenues and Cash, which includes Revenues and Cash produced by the Casino and now sitting in the Bank of America account. Moreover, under the Indenture, the Trustee has an immediate right to the funds because of CEDA's breaches and Events of Default.

52. Section 4.9 of the Security Agreement makes clear that CEDA is obligated to deposit the Casino's revenues into a Deposit Account. This Section states that

CEDA “hereby covenants and agrees that it shall cause all Revenues and Cash consisting of cash and Cash Equivalents in excess of Operating Cash requirements, to be deposited into, and maintained in, a Deposit Account or Securities Account constituting Collateral.”

53. Section 4.4.4(b), quoted above in paragraph 48, makes clear that CEDA must give the Trustee a security interest in Deposit Accounts.

54. Accordingly, the Trustee has a legal right to possession of the funds in the Bank of America account.

55. The Trustee has contacted Bank of America to make a formal demand for the funds in the Bank of America account to be deposited in the Rabobank accounts.

56. Bank of America determined that it could not transfer the funds to Rabobank without direction from a state or federal court with proper jurisdiction over the subject matter and the parties.

CEDA’s Missed Interest Payment

57. Pursuant to the Indenture, interest on the Notes is due semi-annually on March 30 and September 30. *See* Slade Aff. Ex. A.

58. As of April 1, 2013, CEDA failed to make its scheduled interest payment of \$11,933,658.75 to the Holders of the Notes. Such missed interest payment has continued for more than 30 days, which constitutes an Event of Default under Section 6.1(2) of the Indenture. In addition, Section 7.7 of the Indenture requires CEDA to reimburse the Trustee for “all reasonable disbursements, expenses and advances incurred or made by it in connection with its duties under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee’s agents and counsel,” which are currently being incurred as a result of CEDA’s and the Tribe’s many breaches.

59. On information and belief, the Casino was generating sufficient revenue for CEDA to make the interest payment, but the payment was not made as a direct result of the Tribal governance dispute. The Trustee attempted to work with the Lewis and Ayala Factions to find a way for the interest payment to be made while the two Factions resolved their dispute, without avail.

CEDA's Failure to Provide Financial Statements

60. Under Section 4.18 of the Indenture, CEDA is required to provide financial statements to the Trustee and the Holders on a regular basis. Such financial statements were due on April 15 and May 20, 2013.

61. To date, CEDA has not provided to the Trustee and the Holders these financial statements.

62. CEDA's failure to provide the financial statements is yet another breach of the Indenture.

CEDA's Failure to Comply with Applicable Laws

63. Under Section 4.4(b) of the Indenture, CEDA agreed to comply with all laws and other government regulations to which they are subject if noncompliance would materially adversely affect the Casino's prospects.

64. CEDA is subject to the Chukchansi Tribal Gaming Ordinance (the "Tribal Gaming Ordinance").

65. Section 6.1 of the Tribal Gaming Ordinance mandates that CEDA shall deposit the receipts of each gaming activity into a bank account. Section 9.5.1 of the Tribal Gaming Ordinance requires CEDA to obtain an independent audit of the Casino's annual financial statements and section 9.5.3 requires that a copy of such audit be furnished to the Tribal Gaming Commission, the Tribal Council, the State Gaming Agency, and the National Indian

Gaming Commission. Section 8.3 of the Tribal Gaming Ordinance prohibits CEDA from failing to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid from any Gaming Activity.

66. CEDA has failed to comply with the Tribal Gaming Ordinance by, *inter alia*, holding cash in the Casino cage, failing to complete an independent audit of the Casino's 2012 financial statements and failing to maintain sufficient cash management books and records.

The Trustee's Proper Sweep of the Rabobank Accounts

67. On April 11, 2013, the Trustee exercised its right under Section 1(e) of the Control Agreement to sweep (*i.e.*, to instruct Rabobank to withdraw and pay to the Trustee) \$10,550,617.95 from the Rabobank accounts. The Trustee subsequently applied a portion of these funds towards the missed interest payment and related fees incurred. The Trustee did not sweep the entire amount of the interest payment that was due, in part to ensure that the Casino would have cash to pay certain ordinary course operations, such as payouts to jackpot winners in the Casino.

68. Despite the Trustee's efforts to recover the interest due to the Holders, CEDA still owes the Holders millions of dollars in interest, fees and expenses. CEDA's failure to pay the remaining interest due constitutes an ongoing breach of the Indenture, and pursuant to Section 7.7 of the Indenture, CEDA must reimburse the Trustee for its fees and expenses incurred in relation to this dispute under the Indenture.

The Lewis Tribal Court and Tribal Gaming Commission Proceedings

69. On April 18, 2013, the Lewis Faction, purportedly on behalf of CEDA, sued the Trustee in the Tribal Court established by the Lewis Faction (the "Lewis Tribal Court"), claiming, among other things, that the Trustee's sweep of the Rabobank accounts was improper. The Lewis Faction also alleged that the Trustee, by exercising its contractual right to sweep a

portion of the funds due to it under the Indenture, as permitted by the Security Agreement and the Deposit Account Control Agreement for the Rabobank accounts, and by engaging with the Ayala Faction and its counsel, somehow conspired to overthrow the governing body of the Tribe and CEDA. The initiation of that lawsuit constituted a breach of the Indenture because CEDA and the Tribe consented to the jurisdiction of New York courts in the first instance for any disputes arising under or relating to the Indenture or the Security Agreement. *See* Section 13.1(c) of the Indenture and Section 11.8(c) of the Security Agreement. Moreover, CEDA and the Tribe expressly agreed that they would not “institute any action in its own tribal court system in respect of any claim or cause of action arising out of or relating to the Transaction Documents and the transactions contemplated thereunder, but shall instead resort to the other courts set forth above.” *See* Section 13.1(d) of the Indenture and Section 11.8(d) of the Security Agreement. Further, on March 30, 2012, the Tribe passed Resolution 2012-53 which specifically removed jurisdiction of the Tribal Court over any action “arising in respect of or related in any manner ... to a Transaction Document, or to any person who is a participant in a Transaction, a party to or a beneficiary of a Transaction Document, a registered or beneficial owner of any New Note.”

70. On April 26, 2013, the Lewis Faction, through the purported Tribal Gaming Commission, filed Orders to Show Cause requiring the Trustee and one of the Holders to appear on May 2, 2013 to show cause as to why the Tribal Gaming Commission should not take action to reconsider its prior license exemption issued to the Trustee, and to reconsider its license issued to one of the Holders. The Lewis Faction claimed that, by allegedly supporting the Ayala Faction and sweeping the Rabobank accounts as allowed under the Indenture and related documents, the Trustee and the Holder exerted undue influence over the Casino by

engaging in management actions without proper authority and licensure. The Lewis Faction requested that the Tribal Gaming Commission commence an investigation.

71. The Trustee immediately began negotiating with the Lewis Faction in an attempt to have the Lewis Tribal Court complaint and Tribal Gaming Commission proceedings dismissed. On May 2, 2013, the Lewis Faction dismissed its Lewis Tribal Court complaint, but it did so without prejudice as to its purported right to refile an action before that same Tribal Court. On May 8, 2013, the Trustee and the Holder filed a joint motion to dismiss the orders to show cause filed with the Tribal Gaming Commission. On May 9, 2013, the Tribal Gaming Commission dismissed the orders to show cause, again without prejudice.

72. The Trustee incurred substantial expenses and attorneys' fees defending against the Tribal Court action and Tribal Gaming Commission Proceeding. Under Section 7.7 of the Indenture, CEDA agreed to cover the reasonable compensation, disbursements and expenses of the Trustee and its agents and counsel incurred in connection with its performance of its duties under the Indenture.

The Trustee's Attempts to Facilitate a Resolution of the Indenture Breaches

73. Again, the Trustee has not expressed, and does not express, any position with respect to which of the Factions is or rightfully should be in control of the Tribe, the Tribal Council, CEDA or the Casino. The Trustee has remained neutral during the Tribal governance dispute and, in fact, has engaged in substantial efforts to help facilitate a resolution of the Indenture breaches arising from that dispute, particularly with respect to returning the Casino's cash management to normalcy.

74. For weeks, the Trustee has attempted to get the two Factions to reach an agreement whereby the remainder of the interest payment would be made to the Trustee and the Holders, along with fees and expenses owed, and Gross Revenues and Revenues and Cash would

be deposited in the Rabobank accounts rather than held in the Casino cage. Despite its best efforts, however, the Trustee has been unable to get the two Factions to come to an agreement to remedy the breaches of the Indenture, while they work on resolving the Tribal governance dispute.

75. The Factions' failure to resolve their dispute or agree to allow the Casino's operations to be run through Rabobank, will cause irreparable harm to the Trustee and the Holders because it endangers the health of the Casino and the Collateral. CEDA has missed an interest payment to the Holders and failed to pay the Trustee all of the funds due to it under the Indenture and the Security Agreement. By placing some Gross Revenues and Revenues and Cash into the Bank of America account, CEDA has failed to place funds into a bank account over which the Trustee has control, as mandated by the Security Agreement. CEDA also has failed to institute and follow basic controls regarding Casino cash and other assets that constitute the Collateral. For example, CEDA has been trying to maintain Gross Revenues and Revenues and Cash within the Casino itself rather than securing the funds adequately, *i.e.*, by placing the funds in an appropriate bank account. CEDA has further endangered the financial well-being of the Casino by causing a vendor to hold over \$14 million of funds owed to the Casino because no authorized bank will accept the transfer of the funds.

76. Meanwhile, CEDA's actions are undermining the ability of the Casino to operate effectively. For example, critical vendors of the Casino—*e.g.*, on information and belief, vendors that supply food and other necessary services and products to the Casino—are not getting paid. On information and belief, the Factions have engaged in discussions to create an agreed-upon list of key vendors and other entities that should be paid pending the resolution of the Tribal governance dispute, although no agreement has been reached. The Trustee believes

that if the Factions can stipulate and agree, with the Court's assistance, to pay such necessary operating expenses of the Casino during their Tribal governance dispute, this will help avert further irreparable harm.

77. The actions of the Tribal Parties and Individual Defendants endanger the Collateral, and place the financial well-being of the Casino in danger. The Ayala Faction, in fact, has acknowledged that the ongoing dispute endangers the economic well-being of the Tribe. In a May 22, 2013 letter to the members of the Tribe, the Ayala Faction wrote, "[T]he business interests of [the] Tribe – the economic engine you rely on for per-capita payments and the security of your family – remains at risk . . . relationships with casino vendors have been badly damaged, bills have gone unpaid or been paid late, and the bond indenture used to finance the casino stands in peril of default." If not enjoined, these actions risk irreparable harm to the Trustee, the Holders, Casino employees and vendors, and others.

78. In summary, there are ongoing breaches and defaults under the Indenture, posing significant continuing risks to the rights of the Trustee and the Holders under the Indenture, including significant risks to the underlying Collateral. These breaches and ongoing risks require Court intervention. Moreover, the parties agreed that this Court is the exclusive authority to provide the necessary relief.

CAUSES OF ACTION

COUNT I

Breach of Contract – Failure to Deposit Gross Revenues and Revenues and Cash into Deposit Accounts

(Against CEDA)

79. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

80. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

81. The Trustee performed its obligations under the Indenture and Security Agreement at all times before CEDA's breaches.

82. CEDA breached the Indenture by failing to deposit Gross Revenues and Revenues and Cash in excess of Operating Cash into Deposit Accounts, such as the Rabobank accounts, as required by Section 4.25 of the Indenture. Instead, CEDA improperly has kept the Gross Revenues and Revenues and Cash in the Casino cage.

83. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered harm.

COUNT II
Breach of Contract – Failure to Enter into an Account Control Agreement For Bank of America Account
(Against CEDA)

84. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

85. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights, including granting the Trustee and the Holders security interests in certain collateral.

86. The Trustee performed its obligations under the Security Agreement at all times before CEDA's breaches.

87. CEDA breached the Security Agreement by failing to enter into an Account Control Agreement for the Bank of America account, as required under Section 4.4.4(b) of the Security Agreement.

88. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered harm.

COUNT III
Breach of Contract – Failure to Make Required Interest Payment
and Reimburse The Trustee's Expenses
(Against CEDA and the Tribe)

89. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

90. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

91. The Trustee performed its obligations under the Indenture and Security Agreement at all times before CEDA's and the Tribe's breaches.

92. CEDA and the Tribe breached the Indenture by failing to make the interest payment that was due on March 30, 2013, as required under Section 6.1(2) of the Indenture, and have breached the Indenture further by failing to reimburse the Trustee for fees and expenses incurred in connection with the current disputes.

93. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered damage in an amount believed to be in excess of \$3,000,000.

COUNT IV
Breach of Contract – Instituting Proceedings in Violation of Indenture, Security Agreement and Account Control Agreement

(Against CEDA)

94. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

95. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

96. On May 30, 2012, CEDA, the Trustee and Rabobank entered into a Deposit Account Control Agreement granting the Trustee control over the Rabobank accounts via a security interest in the account.

97. The Trustee performed its obligations under the Indenture, Security Agreement and Account Control Agreement at all times before CEDA's breaches.

98. CEDA breached Sections 13.1(c) and 13.1(d) of the Indenture, Sections 11.8(c) and 11.8(d) of the Security Agreement and Sections 10(a)(iii) and 10(a)(iv) of the Account Control Agreement by (1) instituting the action against the Trustee in the purported Tribal Court on April 18, 2013 and (2) instituting and/or participating in proceedings against the Trustee and one of the Holders in the purported Tribal Gaming Commission on April 26, 2013.

99. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered harm.

COUNT V
Breach of Contract – Failure to Comply with Tribal Covenants in the Indenture
(Against the Tribe)

100. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

101. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

102. The Trustee performed its obligations under the Indenture and the Security Agreement at all times before the Tribe's breaches.

103. The Tribe breached Section 4.24 of the Indenture by, *inter alia*, (a) restricting CEDA's right to conduct Casino business, in a manner that is materially adverse to the economic interests of the Holders, in violation of Section 4.24(a)(3), and (b) taking actions that have a material adverse effect on the economic interest of the Holders, in violation of Section 4.24(a)(4).

104. The Tribe breached Section 4.24 of the Indenture by, *inter alia*, asserting claims in a Tribal Forum against the Trustee and one of the Holders.

105. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered harm.

COUNT VI
Breach of Contract – Failure to Comply with Financial Reporting Provisions in the
Indenture

(Against CEDA)

106. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

107. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

108. The Trustee performed its obligations under the Indenture and the Security Agreement at all times before CEDA's breaches.

109. CEDA breached Section 4.18 of the Indenture by failing to provide financial statements to the Trustee and the Holders on April 15 and May 20, 2013 or at any time thereafter.

110. As a direct and proximate result of these breaches, the Trustee, on behalf of itself and the Holders, has suffered harm.

COUNT VII
Breach of Contract – Failure to Comply with the Tribal Gaming Ordinance

(Against CEDA)

111. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

112. The Trustee, the Tribe and CEDA entered into the Indenture and the Trustee and CEDA entered into the Security Agreement. Under these agreements, CEDA agreed

to repay the Secured Notes and CEDA and the Tribe agreed to grant the Trustee and the Holders certain rights.

113. The Trustee performed its obligations under the Indenture and the Security Agreement at all times before CEDA's breaches.

114. CEDA breached Section 4.4(b) of the Indenture by failing to comply with the Tribal Gaming Ordinance by, *inter alia*, holding cash in the Casino cage, failing to obtain an independent audit of the Casino's 2012 financial statements, and failing to maintain sufficient cash management books and records.

COUNT VIII Tortious Interference with Contractual Relations

(Against the Board, the Tribal Council, Ayala, Brechbuehl, Wynn, Sargosa, Lewis, Alberta, Bushman, and the Tribal Gaming Commission)

115. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

116. The Trustee, CEDA and the Tribe entered into the Indenture and the Security Agreement, which are valid contracts.

117. The Board, the Tribal Council, the Tribal Gaming Commission and the Individual Defendants were aware of such valid contracts.

118. The Individual Defendants, the Board, the Tribal Gaming Commission and the Tribal Council intentionally induced CEDA and the Tribe to breach the Indenture and the Security Agreement as described above through, *inter alia*, the following actions.

(a) Ayala, Brechbuehl, Wynn, Sargosa, the Board and the Tribal Council caused CEDA to fail to deposit Gross Revenues and Revenues and Cash into Deposit Accounts,

(b) Ayala, Brechbuehl, Wynn, Sargosa, the Board and the Tribal Council caused CEDA to fail to enter into an Account Control Agreement for the Bank of America Account,

(c) The Individual Defendants, the Board and the Tribal Council caused CEDA to fail to make a required interest payment and to pay the expenses and fees incurred by the Trustee in connection with these disputes,

(d) The Board, the Tribal Council, Lewis, Alberta, Bushman, and the Tribal Gaming Commission instituted and/or participated in proceedings against the Trustee and one of the Holders,

(e) The Individual Defendants, the Board, and the Tribal Council caused the Tribe to fail to comply with the Tribal Covenants in the Indenture,

(f) The Individual Defendants, the Board, and the Tribal Council caused CEDA to fail to comply with the financial reporting requirements in the Indenture, and

(g) The Individual Defendants, the Board, and the Tribal Council caused CEDA to fail to comply with the Tribal Gaming Ordinance.

119. As a direct and proximate result of these actions, the Trustee suffered harm.

COUNT IX

Declaratory Judgment – Sweep of Rabobank accounts Was Permitted by Indenture

120. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

121. An actual, justiciable controversy exists between the Trustee and Defendants within the meaning of CPLR § 3001, which provides the Trustee with a vehicle by which to seek a declaratory judgment from this Court. Based on the foregoing facts, including

that the Lewis Faction initiated proceedings in a purported Tribal Court alleging that the Trustee and one of the Holders improperly swept funds from the Rabobank accounts, the Trustee is entitled to a declaratory judgment that its sweep of the Rabobank Accounts was proper under the Indenture. The Trustee is further entitled to a declaratory judgment that the sweep to recover a portion of the funds the Trustee and the Holders are owed under the Indenture and Security Agreement is not an overt act in furtherance of a conspiracy to overthrow the governing body of the Tribe and CEDA.

COUNT X

Declaratory Judgment – The Trustee Has a Security Interest in and Right of Possession to Funds Held by Bank of America and Global Cash Access

122. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

123. An actual, justiciable controversy exists between the Trustee and each of Bank of America, Rabobank, Global Cash Access, CEDA and the Tribe within the meaning of CPLR § 3001, which provides the Trustee with a vehicle by which to seek a declaratory judgment from this Court.

124. The Trustee has a security interest in the funds in the Bank of America accounts. Pursuant to Sections 2.1, 4.4.4(b), and 4.9 of the Security Agreement, CEDA is required to enter into an Account Control Agreement giving the Trustee control over Deposit Accounts which contain the Revenues and Cash. The Bank of America account contains Revenues and Cash. Moreover, under the Indenture and Security Agreement, the Collateral includes Revenues and Cash. Based on the foregoing facts here and throughout this Complaint, the Trustee is entitled to a declaratory judgment that the Trustee has a security interest in the funds in the Bank of America account.

125. The Trustee also has a security interest in the funds held by Global Cash Access. Global Cash Access holds approximately \$14 million in uncashed checks payable to the Casino. Those funds are part of the Collateral under the Security Agreement and Indenture. Also under the Security Agreement, the funds must be deposited into an account over which the Trustee has control. Based on the foregoing facts here and throughout this Complaint, the Trustee is entitled to a declaratory judgment that the Trustee has a security interest in the funds held by Global Cash Access.

126. In addition, because CEDA owes the Trustee millions of dollars of interest, fees and expenses under the Indenture, the Trustee has an immediate right of possession to the Collateral held by Bank of America and Rabobank sufficient to satisfy the amount owed by CEDA. The Trustee is entitled to a declaratory judgment to that effect.

COUNT XI

Declaratory Judgment – The Funds Held by Bank of America and Global Cash Access Must Be Deposited into the Rabobank Accounts

127. The Trustee repeats and incorporates the allegations set forth above as if set forth fully herein.

128. An actual, justiciable controversy exists between the Trustee and each of Bank of America, Rabobank, Global Cash Access, CEDA and the Tribe within the meaning of CPLR § 3001, which provides the Trustee with a vehicle by which to seek a declaratory judgment from this Court.

129. Pursuant to Section 4.9 of the Security Agreement, CEDA is required to deposit all Revenues and Cash (less Operating Cash) into an account over which the Trustee has control, and maintain all such Revenues and Cash in that account. Upon information and belief, CEDA has had in its possession substantial funds well beyond the \$10 million maximum allocable to Operating Cash. The Bank of America account contains Revenues and Cash. Based

on the foregoing facts here and throughout this Complaint, the Trustee is entitled to a declaratory judgment that the funds in the Bank of America account must be deposited into the Rabobank Accounts.

130. Similarly, the funds held by Global Cash Access constitute Revenues and Cash. Upon information and belief, CEDA has had in its possession substantial funds well beyond the \$10 million maximum allocable to Operating Cash. Based on the foregoing facts here and throughout this Complaint, the Trustee is entitled to a declaratory judgment that the funds in the Global Cash Access funds must be deposited into the Rabobank Accounts. Based on the foregoing facts here and throughout this Complaint, the Trustee is entitled to a declaratory judgment that the Trustee has a security interest in the funds held by Global Cash Access.

Prayer for Relief

WHEREFORE, the Trustee respectfully requests that this Court enter judgment in its favor and against Defendants on the Complaint and enter an order as follows:

- a. awarding the Trustee monetary damages, according to proof at trial;
- b. enjoining CEDA, the Tribe, and the Individual Defendants from maintaining Gross Revenues and Revenues and Cash, other than Operating Cash and Gross Revenues that constitute Excluded Assets, in the cage of the Casino or anywhere other than in an account subject to an Account Control Agreement;
- c. directing CEDA, the Tribe, and the Individual Defendants to deposit, on an ongoing basis, Gross Revenues and Revenues and

Cash, other than Operating Cash and Gross Revenues that constitute Excluded Assets, into the Operating Account;

- d. declaring that the Trustee has a security interest in the funds in the Bank of America account and the uncashed checks held by Global Cash Access;
- e. declaring that the Trustee has an immediate right of possession to the Collateral held by Bank of America and Rabobank sufficient to satisfy the amount owed by CEDA;
- f. declaring that the funds held by Bank of America and Global Cash Access must be deposited into the Rabobank Accounts;
- g. directing Bank of America (as well as CEDA and the Tribe, to the extent necessary) to transfer the funds in the Bank of America account to the Operating Account;
- h. directing Defendant Global Cash Access to pay the funds it holds to the Operating Account;
- i. directing Rabobank to allow the funds from Bank of America and Global Cash Access to be deposited into the Operating Account and to allow payments to be made to the Casino's critical vendors for amounts currently owed and on an ongoing basis, and directing the Factions, with Rabobank, to agree upon a list of such vendors;
- j. enjoining the Tribal Parties and the Individual Defendants from filing further actions against the Trustee before the Tribal Court, the Tribal Gaming Commission, or any other court or entity in

contravention of the jurisdiction consent provisions of the Indenture, the Security Agreement, and the Account Control Agreement;

- k. declaring that the Trustee's sweep of the Rabobank Accounts was proper under the Indenture and the Control Agreement;
- l. directing CEDA to provide reports containing its 2012 year-end audited financial statements and first quarter 2013 unaudited financial statements to the Trustee and the Holders;
- m. enjoining the Tribal Parties and the Individual Defendants from further interfering with CEDA's and the Tribe's obligations under the Indenture and the Security Agreement by, among other things, sending cease and desist letters to the Casino's vendors;
- n. granting the Trustee's attorneys' fees and costs (recovery of which is sought from CEDA or from the funds on deposit with Bank of America or those held by Global Cash Access),⁸ as permitted under Section 7.7 of the Indenture; and

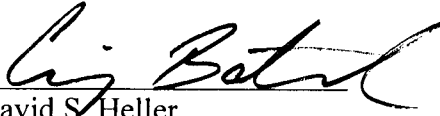
⁸ For the avoidance of doubt, the Trustee does not seek any damages, attorneys' fees or costs from Bank of America, Rabobank or Global Cash Access.

- o. granting such other relief as the Court deems just and proper.

Dated: June 18, 2013
New York, New York

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